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HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S) No. 1601 of 2007.

PETITIONER : Ajay Kumar Khalkho s/o B.R.Khalkho aged about 30 years, Occupation- Assistant Grade III, working at office of Regional Transport Officer Jagdalpur District – Bastar (C.G.)

VERSUS

RESPONDENTS :
1. State of Chhattisgarh, Through the Secretary, Department of Transport, D.K.S. Bhawan, Raipur, District –Raipur (C.G.)
2. The Transport Commissioner, For State of C.G. Office at New Bus Stand Pandri, Raipur (C.G.)
3. The Addi. Transport Commissioner, For State of C.G. Office, at new Bus Stand Pandri, Raipur (C.G.)

Present: Shri F.S.Khare, Advocate for the petitioner.
Shri Vinay Pandey, Panel Lawyer for the State/respondents 1 to 3.

ORDER

(Passed on 20th March 2007)

1. The petitioner was working as Assistant Grade-III in the office of Regional Transport Officer, Jagdalpur, District Bastar. The then Transport Commissioner cum Principal Secretary Home (Transport) in his proceedings dated Nil (Annexure P/2), after having quoted provisions for recruitment on the post of Transport Sub Inspector under the provisions of M.P. Transport Department (Class III Executive) Services Recruitment Rules,

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1969, (which was gazetted on 9th February, 1971) recommended the name of the petitioner for appointment on the post of Sub Inspector as a special case and passed the order of appointment. The provisions under Rules 1969 clearly specify that appointment on the post of Transport Sub Inspector shall be as follows:

> 55% through Direct Recruitment by examination conducted by Public Service Commission.
> 20% on promotion from clerical grade by limited competitive examination.
> 10% by way of promotion and 15% on deputation from Police Department.

2. Thus, it is clear that from clerical Grade i.e. Assistant Grade-III to the post of Transport Sub Inspector, the promotions would be through limited competitive examination to the extent of 20% of the seats available.

3. The Transport Commissioner, after having regard to the provisions has directed to appoint the petitioner without following the due process of law. This appointment is dehors the constitutional scheme of employment as other similarly situated persons have not been given opportunity to appear in the examination for promotion to the post of Transport Sub Inspector.

4. It is well settled that any appointment which is not in accordance with the constitutional scheme is bad and void ab-initio,

5. In view of the foregoing, this petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit